In the High Court of Punjab and Haryana, Chandigarh.

C.R.No.2468 of 2007

Date of Decision: 11.09.2007

Balwant

…Petitioner.

Versus

Siri Chand and Others.

…Respondents.

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Rajinder Goyal, Advocate
for the appellant.

Mr.J.K.Goel, Advocate
for the respondents.

JUDGMENT

RAJESH BINDAL, J.

The plaintiff is in second appeal against the judgment of reversal whereby the judgment & decree of the learned trial Court, in his favour, was reversed by the learned lower Appellate Court, in a suit for permanent injunction filed by him restraining respondents from interfering in the peaceful possession and enjoyment of the disputed property. Admittedly, the appellant/plaintiff is now the owner of the property. The injunction is claimed merely on the basis of possession by pleading that he is using the land for the purpose of preparing and baking the earthen pots by installing three furnaces and constructed Khurlis for tethering mules. It is claimed that he is in

possession of the property since long. The learned trial Court accepted the claim made by the appellant/plaintiff merely on the basis that he was found to be in possession of the property. However, on re-appreciation of the entire material on the record, the learned lower Appellate Court found that the disputed property, the injunction for which is sought by the appellant/plaintiff, is in fact a part of the public street, which vests in the Gram Panchayat. In his cross-examination, even the appellant/plaintiff had admitted that part of the suit property was bricklined by the Gram Panchayat out of the funds allotted by the Member of Parliament. Once it is proved that the suit property was in fact a part of street, no injunction can possibly be granted in favour of the appellant/plaintiff entitling him to have exclusive possession and use thereof.

Accordingly, I do not find merit in the present appeal and the same is dismissed.

(Rajesh Bindal)
Judge

September 11, 2007
"DK"